

Annex E – Consolidated Version of Revised Text

Proposed revised text of section 2, with amendments underlined

“2 Liability for damage done by dangerous animals

(1) Where any damage is caused by an animal which belong to a dangerous species, any person who is a keeper of the animal is liable for the damage, except as otherwise provided by this Act.

(2) Where damage is caused by an animal which does not belong to a dangerous species, a keeper of the animal is liable for the damage, except as otherwise provided by this Act, if-

(a) the damage is of a kind which the animal, unless restrained, was likely to cause or which, if caused by the animal, was likely to be severe; and

(b) the damage was due to an unusual or conditional characteristic of the animal; and

(c) that characteristic, in the case of an unusual characteristic, was known to that keeper or was at any time known to a person who at that time had charge of the animal as that keeper’s servant or, where that keeper is the head of a household, was known to another keeper of the animal who is a member of that household and under the age of sixteen.

(3) A characteristic of an animal is unusual if it is not shared by animals of that species generally.

(4) A characteristic of an animal is conditional if it is shared by animals of that species generally, but only in particular circumstances.

(5) Subsection (2)-

(a) applies by virtue of a conditional characteristic only if the damage was caused in the particular circumstances (or one of them) by reference to which the characteristic is a conditional characteristic; and

(b) does not apply by virtue of a conditional characteristic if the keeper of the animal at the time when the damage was caused shows that there was no particular reason to expect that those circumstances would arise at that time.”